

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RAWLAND JOHNSON and KANDY
JOHNSON, husband and wife and the marital
community comprised thereof,

Plaintiffs,

v.

JOSHUA RAMBO and JANE DOE RAMBO,
husband and wife and the marital community
comprised thereof,

Defendants.

Case No. C06-5258 RJB

ORDER REGARDING RESPONSE
TO MOTION FOR PARTIAL
RECONSIDERATION

This matter comes before the Court on the United States' Motion for Partial Reconsideration of the Court's Order Dated July 19, 2006 (Dkt. 16). Pursuant to Western District of Washington Local Rule 7(h)(3), the court hereby requests a response to the motion from the District Court's Clerk's Office and authorizes a response from plaintiffs. Consideration of the motion for partial reconsideration will be noted for August 11, 2006, and responses should be filed by August 9, 2006, with any replies to be filed by August 10, 2006.

The court is familiar with 28 U.S.C. § 2679(d)(1) and (2), and since the United States filed a certification that the defendant employee was acting within the scope of his federal employment at the time of the incident at issue, the court has deemed the United States to be a true party in interest to the case and has accordingly considered the United States' pleadings, even though the United States is

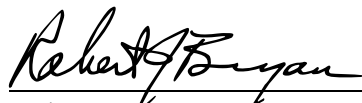
1 not yet a named party. The question raised by the United States' Motion for Partial Reconsideration
2 is whether said statute is self executing, how to get the named defendants dismissed, and how to get
3 the caption of the case changed. It is the court's understanding that the clerk's office does not dismiss
4 parties or change captions of cases without court order. If that is true, and no order is presented to
5 the court by motion or stipulation, the defendants would remain on the case as named defendants, but
6 the United States would be "deemed" to be the real party in interest. That would not be a good result
7 for the named defendants. If the clerk's office is somehow authorized by law to dismiss and substitute
8 parties on a § 2679 certification without further court order, authority for that should be presented to
9 the court.

10 Therefore, it is now ORDERED that plaintiffs may file a response to the United States'
11 Motion for Partial Reconsideration, and the United States Clerk's Office for the Western District of
12 Washington is REQUESTED to file a response to the motion. It is further

13 ORDERED that responses should be filed by August 9, 2006, with any replies to be filed by
14 August 10, 2006, and the matter will be noted for consideration on August 11, 2006.

15 The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel of
16 record and to any party appearing *pro se* at said party's last known address, and to Bruce Rifkin, Clerk
17 of the Court for the Western District of Washington.

18 DATED this 28th day July, 2006.

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20 Robert J. Bryan
21 United States District Judge
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